

**REMARKS**

Amendments to claims 1, 10, 15, 49, 50, 55, 58, and 59 are for the purpose of clarifying what Applicant regards as the claimed invention. Amendments to claims 51, 53, and 60 are to change dependencies. No new matter has been added.

Applicant wishes to thank the Examiner for withdrawing the previous rejections.

I. Claim Rejections under 35 U.S.C. § 102 based on Kalend

Claims 1, 6-10, 14, 15, and 20-23 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,784,431 (Kalend). Applicant respectfully notes that in order to sustain a claim rejection under § 102, each of the claim elements must be found, either expressly or inherently, in the cited reference.

Claim 1 has been amended to recite similar limitations as claim 2, thereby rendering the § 102 rejections based on Kalend moot. In particular, claim 1 has been amended to recite that the determining (the first composite image) comprises performing an *image subtraction* using the first and second images from the sequence. Claims 10 and 15 have been amended to recite similar limitations. Kalend does not disclose or suggest the above limitations. For at least the foregoing reasons, claims 1, 10, and 15, and their respective dependent claims, are believed allowable over Kalend.

II. Claim Rejections under 35 U.S.C. § 102 based on Schweikard

Claims 1, 10, and 15

Claims 1-4, 6-12, 14-17, and 20-23 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent Application Publication No. 2004/0092815 (Schweikard).

Claim 1 recites acquiring *a sequence of images that are generated using an imaging device*, the sequence of images comprises at least a first image and a second image of a target region, and determining a first composite image based at least in part on the first and second images (Emphasis Added). Claims 10 and 15 recite similar limitations. Schweikard does not disclose or suggest the above limitations.

According to pages 3-4 of the Office Action, Schweikard allegedly discloses comparing a pre-therapy image with a therapy image to obtain a composite image. However, Applicant respectfully notes that the pre-therapy image in Schweikard is a “DRR” image (paragraph 23) obtained using a CT machine, while the therapy image is a “x-ray” image (paragraph 44) obtained using a x-ray machine. Thus, Schweikard clearly does not disclose or suggest that the first image (which is analogized by the Examiner as the pre-therapy image) and the second image (which is analogized by the Examiner as the therapy image) are generated using a same imaging device.

Furthermore, because the pre-therapy images and therapy images in Schweikard are generated in different sessions, the pre-therapy image(s) and the therapy image(s) are not from a same sequence of image.

For at least the foregoing reasons, claims 1, 10, and 15, and their respective dependent claims, are believed to be allowable over Schweikard.

Claims 24, 34, and 40

Claims 24-26, 32-36, 38- 42, and 47-48 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2004/0092815 (Schweikard).

Claim 24 recites a template having an image and treatment data, wherein the treatment data comprises one or more parameters for controlling an operation of a radiation machine. Claims 34 and 40 recite similar limitations. Schweikard does not disclose or suggest the above limitations. According to page 4 of the Office Action, Schweikard allegedly discloses matching anatomical image with a template image to determine location and shape of target region, and the location and shape are then used to determine a beaming direction. The Examiner then analogizes the beaming direction as the claimed “treatment data.” However, Applicant respectfully notes that such characterization of Schweikard still does not establish the *prima facie* case of the § 102 rejections. Since the beaming direction in Schweikard is derived from matching an anatomical image with a template image, the template image in Schweikard clearly does not include the beam direction as treatment data. For at least the foregoing reasons, claims 24, 34, and 40, and their respective dependent claims, should be allowable over Schweikard.

### III. Claim Rejections under 35 U.S.C. § 103 based on Schweikard and Kalend

Claims 27, 31, 37, 43, 46, 49, 50, 53-55, 57-59, and 62-66 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schweikard in view of Kalend.

Claim 49 has been amended to recite enhancing a moving object in the input image based on a movement of the object, wherein the object comprises a part of the target region. Claims 55 and 58 have been amended to recite similar limitations. Both Schweikard and Kalend do not

disclose or suggest the above limitations. Thus, any purported combination of these references does not, and cannot, result in the subject matter of claims 49, 55, and 58. For at least the foregoing reasons, claims 49, 55, and 58, and any claims depending therefrom, should be allowable over Schweikard, Kalend, and their combination.

IV. Claim Objection.

Claim 53 stands objected to. Claim 53 has been amended to change claim dependency, thereby rendering the objection moot.

**CONCLUSION**

Based on the foregoing remarks, all claims are believed allowable. If the Examiner has any questions or comments regarding this response, the Examiner is respectfully requested to contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **VM 03-006**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Vista IP Law Group's Deposit Account No. **50-1105**, referencing billing number **VM 03-006**.

Respectfully submitted,

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